



## Kosovo awaiting formal independence Drago Flis<sup>1</sup>

The adoption of the new Serbian constitution which determines Kosovo as an inalienable part of Serbia as well as the intensive campaign for the elections which took place on 21 January 2007 were the two factors which reduced the possibilities for an amicable solution of the Kosovo issue last year. The international negotiation team of the former Finnish President Martti Ahtisaari actually stated the pre-election campaign as the reason for postponing the publication of its document which is to resolve the issue.

A part of the Serbian pre-election campaign was also taking place in Kosovo, though only in its Serbian enclaves, especially in the territory north of the bridge over the river Ibar which divides Kosovska Mitrovica. The Albanian majority in Kosovo once again boycotted the Serbian elections. The Albanian politicians expected from the elections nothing more than even greater obstinacy on the Serbian side which will most probably reflect in tactically delaying the formation of the new government in order to postpone the solution of the crisis.

After several negotiation rounds between the Serbian and the Kosovo Albanian sides Ahtisaari's office in Vienna (UNOSEK) postponed the publication of its document due to Serbian elections. After the elections it first submitted the document to the Kosovo Contact Group and to the two involved sides. Although the document is still of confidential nature, some mediatory channels and agencies have revealed that it is based on the recognition of the right to self-determination – which of course means independence, though subject to a certain time schedule. In view of the fact that the whole group, with the exception of Russia, supports Ahtisaari's idea, it is possible to predict that the whole process will result in complete independence, i.e. Kosovo's constitutionality, with certain limitation regarding the concrete implementation of the sovereignty which will remain subject to control for some time.

The EU diplomacy still hopes that Belgrade and Prishtina agree on a compromise after the election, which means pushing the whole issue back to the beginning. Talks between Serbia and Kosovo will probably be necessary, but they will only be relevant as negotiations between two neighbouring states trying to regulate their relations burdened with a heavy mortgage from the past.

Negotiations on decentralisation, religious and cultural heritage and economic relations were held at intervals throughout the whole of last year in Vienna, though without any results. At the beginning, the courteousness of otherwise separate appearances of both delegations arouse hopes for the progress, but it soon became clear that they are merely repeating the diametrically opposite positions. Encouraging statements for the media made by UN special envoy Ahtisaari as well as by his deputy Albert Rohan proved to be only the desired thinking. After the high-level meeting the UNOSEK officials probably realised that the negotiation rounds will bring no progress. Both leaderships were present at a one-day high-level meeting held on 24 July 2006 in Vienna. The meeting in the Niederösterreich palace was complemented by 14 thematic rounds at the expert level. However, even the high-level meeting brought no progress and after the failed Serb-Kosovo meeting UNOSEK obviously realised that there would be no compromise. The Albanian Kosovo side started to claim, though with reserve, that there are no more possibilities for reaching a compromise with Serbia regarding the

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status while the Serbian side practically spoke no more of the negotiations. It focused all its political discussions, speeches and public gatherings on the preparation of the new constitution of the Republic of Serbia in which the independence of Montenegro was already anticipated while it aimed to prevent the independence of Kosovo. Prishtina did not participate in the Serbian constitutional debate and described the Serbian constitutional amendments, at least for the part concerning the "inclusion" of Kosovo into Serbia, as the constitutional aggression.

UNOSEK permanently adhered to the principles of diplomatic discretion and did not interfere into Serbia's internal affairs. They made a slight exception only in case of the Serbian elections when Ahtisaari decided that the date for the presentation of his document would take place after the elections. According to the logic of the international community the whole issue should wait a little and this logic is still felt now when the document is already prepared. Ahtisaari's UNOSEK and the European Union both believe that the two sides should meet again and negotiate over the contents of the proposal. All that is expected now is Serbia's compromise which would, in case Ahtisaari's document is accepted, further improve the prospects for the national minorities, especially the Serbian one. In view of general support which Ahtisaari enjoys in the international community his document represents a certain international political fait accompli, which the two sides are expected to either accept or reject.

Therefore the only possibility left to the Serbian side is to delay the decision as much as possible. Considering the inconclusive outcome of Serbian elections the Serbian political parties may reach a secret consensus on delaying the formation of the new government which would enable them to delay the adoption of the decision on the status of Kosovo.

Moscow might also decide to delay the adoption of the decision as a form of tactical assistance to Serbia. Since Russia has lost its influence in the international sphere after the Litvinenko and Poltavskaya cases, to which Russia has failed to provide a satisfactory answer, there is little chance that the international community would accept all the consequences of an eventual Russian veto in the UN Security Council without seriously considering other ways of recognising Kosovo's self-determination.

Ahtisaari's UNOSEK invested a lot of work in the proposal for the solution of the Kosovo problem and Ahtisaari himself risked his reputation as one of the most prominent international negotiators. With its proposal which was being developed for one year after the establishment of the negotiating team UNOSEK tactically tried to get one step ahead of the two opposing sides. With the relatively reasonable time limits for the international community Ahtisaari prevented in advance the endless delaying of the status definition which has been a constant during the past seven years. A high level of the plan's tangibility prevented the possibility for the Kosovo side to push ahead its independence using an extensive range of available instruments. The majority side could thus reassert the results of the two 1990 referenda on the status which are not being mentioned in public at the moment, or it could announce a new referendum which the international community could not prevent in view of its principles. It is neither possible to predict the course of events should the Kosovo Albanian side simply decide to declare independence, like the political circles of most former Yugoslavia's entities did.

Most of all, Ahtisaari's document on Kosovo's gradual transition to independence tries to prevent political crises on both the Serbian and the Kosovo Albanian sides. Like any other diplomatic proposal it tries to satisfy and not to satisfy both sides at the same time. However, its turning point is the recognition of the right to self-determination, giving it advantage over the principle of territorial integrity and the right to protect the latter.

Of course, storms of comments on both sides will be inevitable. They will actually form the content of the future Serbian-Kosovo relations. Political problems in Kosovo may also become inevitable. The Kosovo political elite will face some difficulties since the international community proposes significant concessions to the Kosovo authorities for the protection of mostly the Serbian minority although Kosovo's unique national structure encompasses a range of other ethnic minorities which enjoy generous ethnic rights within the Constitutional Framework adopted by the international community.

The decentralisation of the relatively small territory of Kosovo represents a certain compromise for the majority sovereign authority. However, the international community is obviously aware of the fact that the minorities can not be turned into the majority. Nevertheless, by stressing the generosity towards ethnic minorities

the international community accepts the principle of sovereignty of the majority. It limits the latter by laying down concrete provisions for the minorities which were, for the most part, already applied in the Constitutional Framework. The somewhat limited and controlled sovereignty of the Albanian majority also means that Kosovo will not be a copy of the Dayton model for Bosnia and Herzegovina which was based on the balance between the national entities. This rejection of applying the Bosnian model to Kosovo surely is an achievement which could even be regarded as a compromise of the international community which was not as easy one having in mind the fact that quite a number of high international officials who now work in Kosovo previously served in Bosnia and Herzegovina and were affected by that mentality. Of course, decentralisation will require a certain degree of compromise on the Kosovo Albanian side. They will probably have to agree with the text in the brackets on the subsequent gradual implementation of sovereignty in the territory north from Kosovska Mitrovica. Prime Minister Agim Çeku compared this possibility put forward by the international community with the model of gradual implementation of Croatia's sovereignty over eastern Slavonia under the Dayton agreement.

However, any lasting Serbian authority over the territory north of Kosovska Mitrovica, let alone over the whole Kosovo territory, is unacceptable for the Albanians.

After the elections and the adoption of the constitution Serbia regards Kosovo exclusively as an integral part of the Serbian state. Actually, this view has always been in fatal opposition with the tendency of Albanians for self-determination and consequently for independence. Of course, the Serbian politicians are aware of the reality and would be, at least in a long-term negotiation process, actually satisfied with the territory of Mitrovica. They already control and invest in that territory which the international community silently accepts. If that remained a permanent solution, the present Kosovo Albanian political elite would lose its sense of existence. They have therefore, as the Kosovo Albanian media report, prepared their political and practical answers to each variant of the solution. However, that will be the topic of subsequent political development regarding the definition of the status as well as of the subsequent relations between Serbia and Kosovo as two international "subjects", i.e. independent states.

In the long-term, the Euro-Atlantic prospects for the west Balkans offer Serbia, Kosovo and Macedonia accession to EU. Thus the implementation of the self-determination principle in Serbia and Kosovo will eventually enable the abolition of borders and a long-term opportunity to smooth away the traditional antagonism between the South Slavic and the Albanian worlds. Perhaps there was not enough awareness and knowledge of this conflict in the past, since even the media did not report on it. Once the European Union will start dealing with this problem on a long-term scale, it will be able to contribute more to the lasting stability in the region where the Slavic and the Albanian worlds meet.